

To: Hyde, Tinka[hyde.tinka@epa.gov]; Henry, Timothy[henry.timothy@epa.gov]
From: CLARK METTLER, MARTHA
Sent: Fri 9/18/2015 1:46:47 PM
Subject: RE: EPA Stakeholders Meeting - September 23

Is there an opportunity to pose question back to them, or do we just listen and answer? I would like to get a feel from them regarding their interest and willingness to find opportunities for WQ trading.

From: Hyde, Tinka [mailto:hyde.tinka@epa.gov]
Sent: Thursday, September 17, 2015 3:51 PM
To: CLARK METTLER, MARTHA; Henry, Timothy
Subject: RE: EPA Stakeholders Meeting - September 23

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Martha – below are the questions we were provided and a brief summary on the topic to assist me. I've also highlighted areas where you would likely want to respond. Let me know if you have any questions. Tinka

1. Please provide an overview of the proposed revision to the recommended selenium water quality criteria published on May 14, 2014 and how EPA anticipates those will be implemented.

- EPA is taking comments until September 25th on its July 2015 draft selenium criteria that, when finalized, will replace EPA's existing acute and chronic water quality criteria that apply to the water column.
 - o The draft criterion examines the effect of selenium on fish exposed to selenium through the food web.
 - o Draft criterion for selenium is comprised of 4 required criterion elements or parts (egg/ovary fish tissue concentration; whole body/muscle fish tissue concentration; water column monthly average exposure; and intermittent exposure).
 - o While the water column average concentration elements of the draft criterion (1.2 and 3.1ug/L for lakes and rivers, respectively) are more stringent than the existing water

column chronic criterion of 5ug/L, these elements of the criterion would be “overridden” by fish tissue data at a site (i.e., if fish tissue was meeting the criterion elements, then the site would usually be considered “attaining,” regardless of the water column concentrations).

- o EPA is currently working to address selenium implementation questions (e.g., how the 4 element criterion will be used for permitting and assessment determinations) and hopes to finalize the criterion and issue the implementation-related materials soon (perhaps by early 2016).

Martha – my folks provided me the following info but you may want to speak to where you are in your process

- IDEM proposed changes to its selenium criteria outside the Great Lakes basin in March 2014 (first notice of rulemaking updating aquatic life and human health criteria for metals).
- EPA informed IDEM that it is generally supportive of IDEM’s efforts to update out-of-date criteria in December 2014.
- o However, if EPA publishes a final draft of its 304(a) criteria document for selenium prior to Indiana’s adoption of new water quality criteria, EPA expects Indiana to consider the new criteria in their rulemaking.
- o EPA’s actions on Kentucky’s selenium criteria (i.e., November 2013 disapproval of KY’s removal of its acute WQC) will also be considered in EPA’s action on any new or revised selenium standard adopted by Indiana.
- o EPA is unaware of IDEM’s timeline for finalizing its metals rulemaking.

2. What is the status of Region V’s consideration of a petition to remove IDEM’s authorization to administer the NPDES program in Indiana? Will a formal response be issued? What issues does EPA believe have not been adequately addressed?

In response to the December 17, 2009 Petition, we conducted an evaluation in April 2012. The status of on the general topics are:

- Concerns related to Antidegradation – these issues have been addressed as follows:
 - o EPA had been in the process of reviewing the antidegradation rules at the time of the petition and on September 27, 2012 approved IDEM’s antidegradation policy and implementation methods.

- o EPA WQB reviewed and worked with IDEM on the implementation methods. EPA NPDES Branch reviews all major Lake Michigan basin dischargers in Indiana to ensure compliance with Indiana's antidegradation policy and the CWA.

- o In addition, EPA completed its review in October 2012 and found the permits complied with federal antidegradation regulations.

- IDEM's use of permitting by rule for general permits. Do you want to speak to this issue?

- o IDEM has submitted proposed rules to support conversion of the general permit program, and the Indiana Environmental Rules Board adopted final rule changes to 327 IAC 5 and 15 at its July 8, 2015 meeting. This is the rule change which enables IDEM to transition from the permit-by-rule to the administrative general permits for the 5 permits which were public noticed on December 15, 2014. IDEM anticipates that the rule change will become effective by mid-November, 2015. EPA has review and approval authority on these rules. General permits (pre-public notice drafts) submitted by IDEM and approved by EPA to date are:

- Once Through Non-Contact Cooling Water,
- Petroleum Products Terminals,
- Sand & Gravel Operations,
- Groundwater Petroleum Remediation, and
- Hydrostatic Testing of Commercial Pipelines.

- o General permits that still need to be submitted by IDEM to EPA are:

- Coal Mines,
- Construction Site Run-off,
- Industrial Stormwater,
- Municipal Separate Storm Sewer System (MS4), and
- Allen County On-site Systems.

- Concerns about the adequacy of IDEM's inspection and monitor at coal mine and CAFO facilities. Do you want to speak to this issue as well?

- o As a result of our review and inspections related to coal mine facilities, we are

working with the state to ensure that inspections conducted by IDNR are sufficient to determine if NPDES violations are taking place.

- o EPA committed to review Indiana Administrative Code Title 327, Article 5 CAFO revisions that were received July 19, 2013. This action has not been completed and there is no anticipated completion date as a result of staffing changes and competing priorities.

3. Can you provide an update of efforts to develop water quality standards for specific ions that contribute to conductivity/TDS?

State Efforts on Chloride

- Iowa, with assistance from EPA ORD-Duluth, reviewed the chloride criteria and in 2009 derived a hardness-based chloride criterion that incorporated new data.
- Iowa and Indiana adopted new hardness-based chloride criteria in 2010 and 2012, respectively, which EPA approved.

EPA and State Criteria Efforts for Other Major Ions

- EPA has not published 304(a) criteria derived using the 1985 aquatic life criteria guidelines for other major ions (e.g., sulfate).
- IL, with assistance from ORD-Duluth and Region 5, derived an acute sulfate criteria that incorporated acute toxicity data and considered the effect of hardness and chloride on sulfate toxicity. EPA approved the criteria in 2009.
- IN adopted the acute sulfate criterion in 2012 based on the criteria developed by Illinois EPA. EPA approved the IN acute sulfate criteria in 2013.
- Region 5 is not aware of other EPA-led efforts to derive ion-specific criteria for components of TDS/conductivity, although some state-led criteria efforts on major ions, including potassium (OK) and nitrate (MN), are underway.

4. What is the status of EPA's review of the recommended chloride criteria?

- EPA's 1986 chloride aquatic life criteria has both an acute (230mg/l) and chronic (860 mg/l) component.
- EPA is working with USGS to finish some additional toxicity testing for both chloride and sulfate.
- Potential changes to the chloride criteria include an update with additional data and an evaluation of the effects of sulfate and hardness on chloride toxicity.
- Review of the sulfate information will include data for both acute and chronic toxicity.
- While EPA continues to evaluate the new chloride information, including the data showing that chloride and sulfate toxicity are additive, the development of a draft 304(a) criteria has been stalled due to lawsuits and other priority criteria currently under review (i.e., selenium, copper, and cadmium).

5. What is the implementation schedule for the WOTUS rule?

- 3 Fact Sheets Provided:
 - o The Clean Water Rule
 - o The Clean Water Rule for Business
 - o The Clean Water Rule for Utilities
- The Clean Water Rule was developed jointly by the U.S. EPA and the U.S. Army and signed on May 27, 2015. EPA and the Army are taking steps to ensure that waters regulated under the Clean Water Act are more clearly defined, more predictable, and easier for businesses and industry to understand.
- The Rule is being challenged in courts by industry and environmental groups but became effective August 28th, 2015. There was a preliminary injunction issued that effects 13 states, Region 5 states were not covered by this injunction.
- The rule does not change the permitting or implementation of CWA programs. The Clean Water Rule maintains all of the previous exclusions and exempt waters are more clearly defined.
- Activities like planting, harvesting, and moving livestock have long been exempt from permitting under the CWA and the Clean Water Rule does not change that.

- EPA and the Army continue to hold training webinars on implementation of the Rule with the State, public and other Federal agencies that need information about jurisdictional calls on waters of the U.S. Information on the webinars and copies are posted on the webpage (<http://www2.epa.gov/cleanwaterrule/documents-related-clean-water-rule>)

- Additionally, the agencies are focusing three areas to aid in implementation of the rule

- a. Responding to information needs of field staff and public – The agencies have posted Questions and Answers on the Rule on the CWR webpage. As additional questions arise, these Q&As will be updated

- b. Increasing transparency – the Agencies have created of public data base on jurisdictional determination, updating coordination memorandums between the agencies. http://corpsmapu.usace.army.mil/cm_apex/f?p=340:11:0::NO::

- c. Improving the Permitting process – HQ Corps and EPA will convene a workgroup to evaluate existing permit tools and procedures and identify the changes needed to further reduce costs, delays, and frustration in federal permitting while improving CWA protections.

6. Has Region V had any discussions with IDEM officials regarding the Indiana Above Ground Storage Tank Act?

I don't think that this is a big Water issue – you may have more information on this. As I understand it this bill requires owners and operators of above ground storage tanks holding at least 660 gallons of liquid to report information to the state. Can you talk about what, if any impact this will have on Drinking Water?

7. Has Region V or any other EPA Region received any applications for a Class VI UIC permit for a commercial scale carbon sequestration facility?

R5 has received six applications for UIC Class VI permits, and we have issued permits in response to each application.

We understand that Region 7 has received an application but we do not know the status.

From: CLARK METTLER, MARTHA [<mailto:MCLARK@idem.IN.gov>]
Sent: Thursday, September 17, 2015 1:16 PM
To: Hyde, Tinka; Henry, Timothy
Subject: RE: EPA Stakeholders Meeting - September 23

So for what topics do I need to be ready?

From: Hyde, Tinka [<mailto:hyde.tinka@epa.gov>]
Sent: Thursday, September 10, 2015 2:40 PM
To: CLARK METTLER, MARTHA; Henry, Timothy
Subject: RE: EPA Stakeholders Meeting - September 23

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Great! I just received our draft talking points to their questions – clearly some of the questions pertain to work you have going on. Once I review them I'm happy to share them with you.

From: CLARK METTLER, MARTHA [<mailto:MCLARK@idem.IN.gov>]
Sent: Thursday, September 10, 2015 1:22 PM
To: Hyde, Tinka; Henry, Timothy
Subject: FW: EPA Stakeholders Meeting - September 23

So I guess I'm coming to see you in a couple of weeks? How does this work, do you

need anything form me for prep?

Martha Clark Mettler

Deputy Assistant Commissioner

Office of Water Quality

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From: Smith, Janet

Sent: Thursday, September 10, 2015 2:09 PM

To: Comer, Carol; PIGOTT, BRUNO; Palin, Bruce; Baugues, Keith; Snemis, Donald; CLARK METTLER, MARTHA

Subject: EPA Stakeholders Meeting - September 23

From: Deamer, Eileen [<mailto:deamer.eileen@epa.gov>]

Sent: Wednesday, September 09, 2015 1:08 PM

To: Smith, Janet

Subject: FW: 9/23/15 Discussion Questions

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Hi Janet:

Attached is the suggested list of suggested topics from the industry attendees for the Indiana/Industry/EPA meeting. Let me know if you have any questions.

Nice chatting with you today,

Eileen Deamer

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